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7	Attorneys for Complainant
8	BEFORE THE BOARD OF REGISTERED NURSING
. 9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11-	In the Matter of the Accusation Against: Case No. 2011-756
12	LEMUEL BATHAN SIBULO  ACCUSATION
13	P.O. Box 4838 Downey, CA 90241
14	Registered Nurse License No. 538749
15	Respondent.
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17	Complainant alleges:
18	PARTIES
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20	official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21	Department of Consumer Affairs.
22	Registered Nurse License
23	2. On or about November 21, 1997, the Board issued Registered Nurse License Number
24	538749 to Lemuel Bathan Sibulo ("Respondent"). The registered nurse license expired on
25	September 30, 2001.
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	1
	ACCUSATION

#### STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.
- 4. Code section 118 provides, in pertinent part, that the withdrawal of an application for a license after it has been filed with a board . . . shall not deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any ground.
- 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action....

#### **COST RECOVERY**

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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#### FIRST CAUSE FOR DISCIPLINE

#### (Disciplinary Action by the Nevada State Board of Nursing)

- 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that he was disciplined by the Nevada State Board of Nursing ("Nevada Board"), as follows:
- 9. On or about June 4, 2007, pursuant to an Agreement for Probation, in the matter entitled *Lemuel Sibulo*, *Licensed Professional Nurse*, *Nevada License No. RN36176*, Case No. 0910-06C, the Nevada Board placed Respondent's nursing license on probation.
  - 10. The Nevada Board based its Order on the following facts and admissions:
  - a. Between December 2001 and December 2005, Respondent was employed as a
    registered nurse at Five Star Home Health Agency and subsequently at Guardians Home
    Health Care Agency.
  - b. Between December 2001 and December 2005, while Respondent was providing home health care, as a registered nurse, to Margaret and/or Francis Denning, Respondent accepted personal checks from Margaret Denning in the following amounts and on the following dates:
    - (1) December 16, 2003 \$20,000;
    - (2) January 6, 2003 \$10,500;
    - (3) January 24, 2003 \$1,200;
    - (4) May 9, 2003 \$2,000; and
    - (5) March 3, 2005 \$7,000.
  - c. Respondent was charged by the Nevada Board with exploitation of a patient for financial gain and violating professional boundaries.
  - d. Respondent admitted in the Agreement for Probation that while he was the owner/operator and a registered nurse at the two (2) home health agencies described above, he provided nursing care for a client who concurrently invested approximately \$30,000 in the same home health agencies. Respondent admitted this conduct constituted exploitation of a patient for financial gain and violated professional boundaries.

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#### SECOND CAUSE FOR DISCIPLINE

#### (Unprofessional Conduct)

Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, in that Respondent committed acts constituting unprofessional conduct, as more fully set forth in paragraphs 8 through 10, above.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 538749, issued to Lemuel Bathan Sibulo;
- 2. Ordering Lemuel Bathan Sibulo, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: March 9, 2011

LA2011500533

**Executive Officer** 

Board of Registered Nursing Department of Consumer Affairs

State of California

Complainant